

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
BOSTON DIVISION

04

11720 GAO

CIVIL ACTION NO.: 04-11720-GAO
U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ROBERT O'TOOLE,)
)
Plaintiff,)
v.)
)
THE STANDARD INSURANCE)
)
Defendant.)

COPY

COMPLAINT

NOW COMES THE Plaintiff, by and through his attorney, Michael James Kelley, and makes this complaint against the Defendant:

I. GENERAL ALLEGATIONS

1. This action arises under the EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 [29 USC §§1001 ET SEQ.] (ERISA) and more particularly §502(a)(1)(B) and §502(c) of said Act [29 USC §1132(a)(1)(B), §1132(c)]. The court has jurisdiction of this matter under 29 USC §1132(e).

2. The Plaintiff is currently residing at 23 Reedsdale Road, Milton, Commonwealth of Massachusetts and is a qualified participant in a Long Term Disability (LTD) plan within the meaning of 29 USC §1002(7) of ERISA.

3. The Defendant, the Standard Insurance, is a corporation organized and existing under the laws of the State of Delaware, with its principle place of business at Portland, Oregon.
4. The Defendant, The Standard Insurance, hereinafter cited as the LTD Plan or Plan, is a qualified employees' Long Term Disability Plan under Section 401 of the Internal Revenue Code of 1954, as amended and an employee benefit plan within the meaning of 29 USC §1002(2)(A) and §1002(35).
5. The Plaintiff was a qualified employee of New England of Law, hereinafter cited as Employer, and remained continuously employed under the terms of the LTD Plan.
6. Plaintiff became 100% permanently disabled due to severe medical impairments and applied for long term disability benefits with the Defendant.
7. The decision by the Defendant, issued on February 20, 2004, was their final decision denying benefits and the Plaintiff thereby exhausted all internal appeals process.
8. The Plaintiff was not eligible for review of her claim by the Federal Court until he had exhausted all internal appeals.

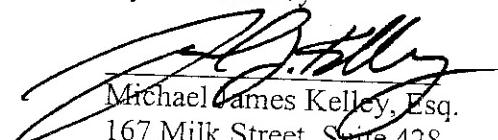
9. Benefits due are vested under the LTD and the Plaintiff has complied with all conditions in order to receive such disability benefits.
10. The Defendant failed to consider evidence offered by Plaintiff establishing total and permanent disability.
11. The Defendant failed to provide the Plaintiff with the opportunity for a full and fair review of his claim.
12. The above-mentioned decision of the Defendant denying the Plaintiff benefits due under the terms of the long term disability plan was arbitrary, capricious, not made in good faith, unsupported by substantial evidence, erroneous as a matter of law, and in violation of ERISA.
13. As the direct and proximate result of the actions of the defendant, The Standard Benefit Administrators, Plaintiff has been caused to incur attorneys' fees in an amount currently not known to the Plaintiff.
14. As a direct and proximate result of the above Defendant's actions, the Plaintiff has lost benefits in an amount not known in full by the Plaintiff but upon belief and information such loss approximates the amount of benefits due under the terms of the LTD Plan for each month since January 17, 2003 and the amount the Plaintiff will continue to sustain each month until the benefits are paid in full.

WHEREFORE, the Plaintiff prays judgment against the Defendants as follows:

1. An order for the Defendant's LTD Plan to pay to the Plaintiff all Long Term Disability benefits accrued and unpaid to the date of this judgment;
2. An order for the Defendants to designate the Plaintiff as an eligible participant under the Plan and to pay the Plaintiff the contracted monthly LTD benefits from the date of this judgment henceforth;
3. Imposition of such other penalties against the Defendants as deemed appropriate; and
4. The Plaintiff is awarded attorneys' fees and costs of this action and such other relief as deemed appropriate.

Date: July 28, 2004

Respectfully submitted,
Plaintiff
By his Attorney



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